

public auction, for cash or credit as my executors may see fit, and that the price of said estate which is then sold, together with all the other money which may remain from sales or incomes as afore-directed, shall be put out on interest and given and divided as follows: first, \$100 to be given to the Chapel Fund, and of the remainder one-half to be given to the Bible Society and the other half to be divided equally between the missionary labours of the New Connexion Methodists and the Preaching of the Gospel of the same body of Christians among us in this circuit, which moneys are to be paid in the following manner, viz., the whole of the yearly interest and \$50 of the principal to be paid yearly to the Bible Society from their half, until the whole of their aforesaid half is exhausted, and the Missionary Society shall have the whole of the yearly interest and \$25 of the principal yearly from their share until it is exhausted. Also they that preach the Gospel among us of the aforesaid denomination shall have the whole of the yearly interest and \$25 of the principal yearly, till the whole of the Preachers' share is exhausted." (I have corrected the orthography, which is in some cases unconventional.)

The widow died 4th May, 1907; the original executors are all dead. A motion is made to the Court: (1) to determine the validity of the gifts aforesaid to (a) the Chapel Fund, (b) the Bible Society, (c) the New Connexion Methodists; (2) to determine whether the moneys should be retained by the personal representatives of the deceased, or paid over at once; and (3) to determine whether the proceeds of the real estate or any part thereof are to be divided as upon an intestacy. It is plain that the statute of 1892, now R. S. O. 1897 ch. 112, does not apply, the testator dying before 1892: sec. 2.

The two gifts (a) and (c) may be considered together. The celebrated case of *Doe dem. Anderson v. Todd*, 2 U. C. R. 82, is conclusive against the validity of these gifts, unless there can be set up subsequent legislation authorizing the New Connexion Methodist Church or its Chapel Fund to take in mortmain. No such legislation can be found.

For some reason—perhaps because that religious body was rather a missionary church sustaining very close relations with the parent body in England—they do not seem to have sought such legislation as the sister church, the Wesleyan Methodists, obtained in their Act of 1851, 14 & 15 Vict. ch. 142.